

SENATE JOURNAL

OF THE

IDAHO LEGISLATURE

FIRST REGULAR SESSION
FIFTY-SEVENTH LEGISLATURE

ONE HUNDRED SIXTEENTH LEGISLATIVE DAY
THURSDAY, MAY 1, 2003

Senate Chamber

President Risch called the Senate to order at 10 a.m.

Roll call showed all members present except Senator Pearce, absent and formally excused by the Chair; and President Pro Tempore Geddes, Senators Brandt, Cameron, Little, Noh, Pearce, Schroeder, Stennett, and Werk, absent and excused.

Prayer was offered by Chaplain Gene Arnold.

The Pledge of Allegiance was led by Dorothea Baxter, Docket Clerk.

The Senate advanced to the Third Order of Business.

Reading and Correction of the Journal

President Pro Tempore Geddes and Senators Brandt, Cameron, Noh, and Stennett were recorded present at this order of business.

The JUDICIARY AND RULES Committee reports that the Senate Journal of the proceedings of April 30, 2003, was read and approved as corrected.

DARRINGTON, Chairman

There being no objection, the report was adopted and ordered filed in the office of the Secretary of the Senate.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

Senators Little, Schroeder, and Werk were recorded present at this order of business.

May 1, 2003

The JUDICIARY AND RULES Committee reports that **S 1176** has been correctly enrolled.

DARRINGTON, Chairman

The President signed Enrolled **S 1176** and ordered it transmitted to the House for the signature of the Speaker.

May 1, 2003

The STATE AFFAIRS Committee reports out **H 451** with the recommendation that it do pass.

SORENSEN, Chairman

H 451 was filed for second reading.

May 1, 2003

The LOCAL GOVERNMENT AND TAXATION Committee reports out **H 428** with the recommendation that it do pass.

BUNDERSON, Chairman

H 428 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Eighth Order of Business.

Messages from the Governor

May 1, 2003

The Honorable James E. Risch
President of the Senate
Idaho Legislature

Dear Mr. President:

I have the honor to inform you that I have appointed Kent Banner of Fruitland, Idaho, to be Acting State Senator for Legislative District 9, Adams, Canyon, Payette, and Washington Counties. This appointment will be effective Thursday, May 1, 2003, and continue until such time as Senator Monty Pearce is able to resume his duties.

Sincerely,
/s/ Dirk Kempthorne
Governor

THE OFFICE OF THE GOVERNOR
EXECUTIVE DEPARTMENT
BOISE, IDAHO
CERTIFICATE OF APPOINTMENT

KNOW ALL MEN, by these Presents that pursuant to the provisions of Section 59-917, *Idaho Code*, Monty Pearce, State Senator, District 9, Adams, Canyon, Payette, and Washington County, State of Idaho, has nominated Kent Banner of Fruitland, Idaho, to perform the duties of this office temporarily as Acting State Senator, District 9, Adams, Canyon, Payette, and Washington County.

NOW, THEREFORE, I, DIRK KEMPTHORNE, Governor of the State of Idaho, by virtue of the authority vested in me do hereby appoint Kent Banner, to the office of State Senator, District 9, for a term commencing on May 1, 2003, and continuing until such time as Senator Monty Pearce is able to resume his duties.

IN TESTIMONY WHEREOF, I have hereunto set my hand and caused to be affixed the Great Seal of the State of Idaho.

Done at Boise, the Capital of Idaho, this first day of May, in the year of our Lord Two thousand and three and of the Independence of the United States of America, the two hundred and twenty-seventh year.

/s/ BY THE GOVERNOR DIRK KEMPTHORNE
/s/ SECRETARY OF STATE BEN YSURA

The correspondence and Certificate of Appointment were ordered filed in the office of the Secretary of the Senate.

The President announced that the Oath of Office had been administered previously to Acting Senator Kent Banner, and he was recorded present at this order of business.

The Senate advanced to the Ninth Order of Business.

Messages from the House

April 30, 2003

Mr. President:

I transmit herewith **H 461, H 458, H 457, H 459, H 460, H 462, and H 463** which have passed the House.

JUKER, Chief Clerk

H 461, H 458, H 457, H 459, H 460, H 462, and H 463 were filed for first reading.

The Senate advanced to the Tenth Order of Business.

Motions and Resolutions

The President announced the Commerce and Human Resources Committee report relative to the Gubernatorial appointment of LaMoyne Hyde was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Davis, seconded by Senator Stennett, the Gubernatorial appointment of LaMoyne Hyde as Director of the Department of Commerce was confirmed by voice vote.

The President declared the report adopted and directed the Secretary of the Senate to prepare a letter of the Gubernatorial appointment confirmation for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The President announced the Health and Welfare Committee report relative to the Gubernatorial appointments of Craig D. Harlen and Stephen C. Weeg was before the Senate for final consideration, the question being, "Shall the report be adopted?"

On motion by Senator Burkett, seconded by Senator Brandt, the Gubernatorial appointment of Craig D. Harlen as a member of the Board of Environmental Quality was confirmed by voice vote.

The President called President Pro Tempore Geddes to the Chair.

On motion by Senator Kennedy, seconded by Senator Darrington, the Gubernatorial appointment of Stephen C. Weeg as a member of the State Board of Health and Welfare was confirmed by voice vote.

The President Pro Tempore declared the report adopted and directed the Secretary of the Senate to prepare letters of the Gubernatorial appointment confirmations for his signature, attested to by the Secretary, to be transmitted to the Governor informing him of the action of the Senate.

The Senate advanced to the Eleventh Order of Business.

Introduction, First Reading, and Reference of Bills, House Petitions, Resolutions, and Memorials

H 461, H 457, H 459, H 460, H 462, and H 463, by Appropriations Committee, were introduced, read the first time at length, and referred to the Finance Committee.

H 458, by Ways and Means Committee, was introduced, read the first time at length, and referred to the Resources and Environment Committee.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business.

Reports of Standing Committees

May 1, 2003

The FINANCE Committee reports out **H 461, H 457, H 459, H 460, H 462, and H 463** with the recommendation that they do pass.

CAMERON, Chairman

H 461, H 457, H 459, H 460, H 462, and H 463 were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Twelfth Order of Business.

Second Reading of Bills

H 451, by Ways and Means Committee, was read the second time at length and filed for third reading.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of **H 428** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 428** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President Pro Tempore declared the rules suspended.

The President returned to the Chair.

H 428 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senators Goedde and Compton arose as co-sponsors of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Calabretta, Compton, Gannon, Goedde, Ingram, Kennedy, Keough, Little, Malepeai, Marley, McWilliams, Noh, Richardson, Schroeder, Stegner, Stennett, Werk. Total - 22.

NAYS--Banner (Pearce), Burtenshaw, Cameron, Darrington, Davis, Geddes, Hill, Lodge, McKenzie, Sorensen, Sweet, Williams. Total - 12.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President declared **H 428** passed, title was approved, and the bill ordered returned to the House.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of **H 461** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 461** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended.

The President called President Pro Tempore Geddes to the Chair.

H 461 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Marley arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Noble. Total - 1.

Total - 35.

Whereupon the President Pro Tempore declared **H 461** passed, title was approved, and the bill ordered returned to the House.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of **H 457** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 457** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President Pro Tempore declared the rules suspended.

The President returned to the Chair.

H 457 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Calabretta arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Lodge. Total - 1.

Total - 35.

Whereupon the President declared **H 457** passed, title was approved as corrected, and the bill ordered returned to the House.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of **H 459** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 459** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended.

H 459 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Richardson arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner(Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 34.

NAYS--None.

Absent and excused--Lodge. Total - 1.

Total - 35.

Whereupon the President declared **H 459** passed, title was approved, and the bill ordered returned to the House.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Stennett, that all rules of the Senate interfering with the immediate passage of **H 460** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 460** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended.

H 460 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Brandt, Bunderson, Burkett, Burtenshaw, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Werk, Williams. Total - 30.

NAYS--Banner (Pearce), Calabretta, Keough, Sweet. Total - 4.

Absent and excused--Stennett. Total - 1.

Total - 35.

Whereupon the President declared **H 460** passed, title was approved, and the bill ordered returned to the House.

Motion to Suspend Rules

Moved by Senator Davis, seconded by Senator Malepeai, that all rules of the Senate interfering with the immediate passage of **H 462** be suspended; that the portions of Section 15, Article 3, of the Constitution of the State of Idaho requiring all bills to be read on three several days be dispensed with, this being a case of urgency, and that **H 462** be read the second time by title and the third time at length, section by section, and be put upon its final passage. The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

May 1, 2003

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Hill, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk, Williams. Total - 35.

More than two-thirds having voted in the affirmative, the President declared the rules suspended.

H 462 was read the second time by title and the third time at length, section by section, and placed before the Senate for final consideration. Senator Cameron arose as sponsor of the bill and opened the debate. The question being, "Shall the bill pass?"

Roll call resulted as follows:

AYES--Andreason, Bailey, Banner (Pearce), Brandt, Bunderson, Burkett, Burtenshaw, Calabretta, Cameron, Compton, Darrington, Davis, Gannon, Geddes, Goedde, Ingram, Kennedy, Keough, Little, Lodge, Malepeai, Marley, McKenzie, McWilliams, Noble, Noh, Richardson, Schroeder, Sorensen, Stegner, Stennett, Sweet, Werk. Total - 33.

NAYS--Hill. Total - 1.

Absent and excused--Williams. Total - 1.

Total - 35.

Whereupon the President declared **H 462** passed, title was approved, and the bill ordered returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Sixth Order of Business, Reports of Standing Committees.

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate recessed at 12:40 p.m. until the hour of 2 p.m. of this day.

RECESS AFTERNOON SESSION

The Senate reconvened at 2 p.m., pursuant to recess, President Risch presiding.

Roll call showed all members present except Senator Noble, absent and formally excused by the Chair; Acting Senator Banner, Senators Andreason, Bunderson, Burkett, and Stennett, absent and excused.

Prior to recess the Senate was at the Sixth Order of Business.

Reports of Standing Committees

Senators Bunderson and Stennett were recorded present at this order of business.

The RESOURCES AND ENVIRONMENT Committee reports out **H 458** with the recommendation that it do pass.

NOH, Chairman

H 458 was filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Ninth Order of Business.

Messages from the House

Senators Andreason and Burkett were recorded present at this order of business.

May 1, 2003

Mr. President:

I transmit herewith Enrolled **H 453** and **H 383**, as amended in the Senate, for the signature of the President.

JUKER, Chief Clerk

The President announced he was about to sign Enrolled **H 453** and **H 383**, as amended in the Senate, and when so signed, ordered them returned to the House.

May 1, 2003

Mr. President:

I return herewith Enrolled **S 1176**, which has been signed by the Speaker.

JUKER, Chief Clerk

Enrolled **S 1176** was referred to the Judiciary and Rules Committee for transmittal to the Office of the Governor.

May 1, 2003

Mr. President:

I transmit herewith Enrolled **H 428**, **H 461**, **H 457**, **H 459**, **H 460**, and **H 462** for the signature of the President.

JUKER, Chief Clerk

The President announced he was about to sign Enrolled **H 428**, **H 461**, **H 457**, **H 459**, **H 460**, and **H 462**, and when so signed, ordered them returned to the House.

On request by Senator Davis, granted by unanimous consent, the Senate returned to the Fifth Order of Business.

Petitions, Resolutions, and Memorials

Acting Senator Banner was recorded present at this order of business.

SP 101**BY JUDICIARY AND RULES COMMITTEE****A PROCLAMATION**

COMMENDING MARINE LANCE CORPORAL JACOB TUCKER, CALDWELL, IDAHO, FOR HIS SERVICE TO THE UNITED STATES OF AMERICA.

We, the members of the Senate of the State of Idaho assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, recognize and commend the service of Marine Lance Corporal Jacob Tucker of Caldwell.

WHEREAS, Marine Lance Corporal Jacob Tucker of Caldwell served meritoriously in the war to bring freedom to Iraq; and

WHEREAS, Jacob Tucker served as a radio operator in Bravo Company as he, and his comrades, were among the first to cross the border into Iraq and later as they entered Baghdad; and

WHEREAS, Jacob is the son of Paul and Marjie Tucker of Caldwell and is the fourth son of the Tucker family to serve with honor in the military;

WHEREAS, Jacob Tucker incurred a gunshot wound and was subsequently awarded a Purple Heart; and

WHEREAS, the members of the Senate of the State of Idaho wish to join with the people of Caldwell and all of Idaho to recognize Jacob Tucker for his commitment to the principles for which America and Americans stand; and

WHEREAS, Jacob Tucker has returned to Caldwell where he will continue his recovery but continues to express his concern for his comrades in arms who are still serving in harm's way.

NOW, THEREFORE, BE IT PROCLAIMED by the members of the Senate assembled in the First Regular Session of the Fifty-seventh Idaho Legislature, that we recognize and commend the service of Marine Lance Corporal Jacob Tucker, extend our congratulations on the recognition of his service and receipt of a Purple Heart. We further assure our servicemen and women of our continuing concern for their welfare and prayers for their safe return.

BE IT FURTHER PROCLAIMED, that the Secretary of the Senate be, and she is hereby instructed to forward copies of this Proclamation to Marine Lance Corporal Jacob Tucker and his family of Caldwell, Idaho.

SP 101 was introduced, read at length, and referred to the Judiciary and Rules Committee for printing.

The Senate advanced to the Sixth Order of Business.

Reports of Standing Committees

May 1, 2003

The JUDICIARY AND RULES Committee reports that Enrolled **S 1176** was delivered to the Office of the Governor at 3:40 p.m., May 1, 2003.

DARRINGTON, Chairman

The report was ordered filed in the office of the Secretary of the Senate.

May 1, 2003

The STATE AFFAIRS Committee reports out **H 396** and **H 397** with the recommendation that they do pass.

SORENSEN, Chairman

H 396 and **H 397** were filed for second reading.

On request by Senator Davis, granted by unanimous consent, the Senate advanced to the Fifteenth Order of Business.

Miscellaneous Business

On motion by Senator Davis, seconded by Senator Stennett, by voice vote the Senate adjourned at 4 p.m. until the hour of 8 a.m., Friday, May 2, 2003.

JAMES E. RISCH, President

Attest: JEANNINE WOOD, Secretary